

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THREE BROTHERS TRADING, LLC,

Judgment Creditor,

-against-

GENEREX BIOTECHNOLOGY CORP.,

Judgment-Debtor.

**DECLARATION IN SUPPORT OF  
MOTION TO WITHDRAW**

Case No. 18-CV-11585

**ALEXANDER KLEIN, ESQ.**, an attorney admitted to practice law in the Southern District of New York, declares under penalty of perjury as follows:

1. I am a partner in the firm Barket Epstein Kearon Aldea & LoTurco, LLP (“BEKAL”), which remains counsel of record on this matter’s docket.

2. Unless otherwise specified, the allegations in this affirmation are based upon personal knowledge.

3. I submit this affirmation in support of our application to withdraw as counsel of record on the docket.

4. BEKAL was hired by Generex Biotechnology Corp. (“GNBT”) at a stage in this litigation in which Three Brothers Trading, LLC (“AEXG”) was seeking to confirm an arbitral award. We remained counsel of record through April 9, 2021, on which date a judgment was entered contemporaneously with the execution of a settlement agreement. Though the Court explained that it would retain jurisdiction over the matter for the sake of enforcement proceedings, the substantive litigation on the underlying merits of this case concluded on that date—April 9, 2021—a date on which the case was “closed.” *See, e.g.*, ECF Entry No. 124 (“WARNING: CASE CLOSED on 04/09/2021”).

5. BEKAL continued representing GNBT in connection with certain judgment collection matters until on or about July 2, 2021, on which date we were instructed in writing to transfer our representation to the law firm of Tarter Krinsky & Drogin, LLP (“TKD”).<sup>1</sup> Thereafter, on information and belief, AEXG engaged in further negotiations and judgment collection efforts related to this matter, and those negotiations and efforts were conducted through TKD rather than BEKAL. Given that the case had been closed, but in hindsight regrettably, we did not notate the transfer of representation on the docket.

6. While we understand that there have been several communications between GNBT and AEXG since July 2021, the docket had been silent for the nearly seven months since the judgment was entered. That changed in November 2021, when we received notification that AEXG was asking the Court to appoint a receiver for GNBT. Shortly thereafter, counsel for AEXG included BEKAL in a communication regarding its application given the fact that, now back on the docket, we remained counsel of record. This prompted further communications between BEKAL and GNBT when, on November 9, 2021, it was again confirmed that BEKAL is not representing GNBT in connection with further proceedings in this case.

7. Shortly thereafter I notified AEXG’s counsel and told him that I would put this request regarding withdrawal on the docket. However, upon confirming this arrangement with TKD on the same date, one added wrinkle came to my attention—that TKD’s continued involvement in these proceedings is in jeopardy. TKD will be served with this application in order to provide it with an opportunity to address those circumstances.

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<sup>1</sup> This writing was sent to both BEKAL and to TKD. Notwithstanding our replacement as counsel in this matter, BEKAL remains counsel of record for GNBT in certain unrelated proceedings over which there have been no similar steps toward substitution.

8. Ultimately, given this background, we respectfully request permission to withdraw as counsel of record. Because there is now pending an application seeking the dramatic relief of appointing a receiver for GNBT, we additionally request that GNBT be given a reasonable period of time within which to sort out the nature or existence of TKD's continued representation here in the post-judgment setting, to find other counsel, or to elect to proceed *pro se*.

*I declare under penalty of perjury that the foregoing is true and correct.*

Dated: Garden City, New York  
November 10, 2021

**BARKET EPSTEIN KEARON ALDEA  
& LOTURCO, LLP**

/s/ Alexander Klein

Alexander Klein  
666 Old Country Road, Suite 700  
Garden City, New York 11530